



IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/FIRST APPEAL NO. 2608 of 2014

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR.JUSTICE MOOL CHAND TYAGI

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Approved for Reporting	Yes	No

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SAVITABEN KARANSINH SOLANKI & ORS.

Versus

LALABHAI BACHUBHAI PARMAR & ORS.

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Appearance:

MR MTM HAKIM(1190) for the Appellant(s) No. 1,2,3,4,5,6

MR R G DWIVEDI(6601) for the Defendant(s) No. 3

MR.SANAT B PANDYA(6976) for the Defendant(s) No. 1

RULE UNSERVED for the Defendant(s) No. 2

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CORAM:HONOURABLE MR.JUSTICE MOOL CHAND TYAGI

Date : 27/08/2026

JUDGMENT

1. The captioned appeal is filed against the impugned judgment and award dated 26.03.2013 passed by the learned Motor Accident Claims Tribunal (Auxiliary) and 3rd Additional District Judge, Panchmahals at Godhra in MACP No.1045/2007, whereby the learned Tribunal had partly allowed the claim petition and awarded a sum of Rs.7,56,000/- as a compensation along with interest at the rate of 9% per annum from the date of filing of claim petition till its realization.

2. The succinct facts leading to file the captioned appeal are that on



24.04.2007, at about 8:15 p.m., the deceased-Umedsinh Karansinh along with others was returning from Godhra after purchasing a new Tempo. When they were passing through Chhakadiya cross-road, in the meantime, the respondent no.1 herein came by driving the tempo bearing registration no.GJ-06-V-8033 in a rash and negligent manner, at an excessive speed and lost the control over the vehicle and dashed with the tempo, in which the deceased was travelling. Due to the impact of the said accident, the deceased sustained serious injuries and succumbed to the injuries.

3. On being served, the respondent no.3/insurance company filed its written statement at Exh.17, thereby denying all the averments made in the claim petition and prayed for rejection of the claim petition.

4. Having considered the pleadings, evidence led by the respective parties and the submissions canvassed by the respective parties, the learned Tribunal had partly allowed the claim petition and awarded a sum of Rs.7,56,000/- as a compensation along with interest at the rate of 9% per annum from the date of filing of claim petition till its realization.

5. Being aggrieved and dissatisfied with the impugned judgment and award, the original claimants/appellants herein challenged the impugned judgment and award on the ground of quantum.

6. Heard learned counsels for the parties.

7. Mr. Mohsin M. Hakim, learned counsel appearing on behalf of original claimants/appellants, vehemently submitted that at the time of



accident, the deceased was aged about 39 years and he was running a general store and was also engaged in agricultural work on a part-time basis. He further submitted that the deceased also owned a chakda rickshaw bearing registration no.GJ-07-TT-9054 and he was earning Rs.10,000/- per month from all these sources of income. He submitted that the learned Tribunal after considering the oral as well as documentary evidence on record, assessed the income of the deceased at Rs.3,000/- per month. He further submitted that the chakda rickshaw bearing registration no.GJ-07-TT-9054 was purchased by availing the finance from M/s. N.P.R. Finance Ltd., hence, the deceased was paying the installments of Rs.5,000/- per month. He submitted that the learned Tribunal has lost the sight of the fact that if the deceased was earning Rs.3,000/- per month, then how could he have been paying the installments of Rs.5,000/- per month. He further submitted that the learned Tribunal ought to have relied upon the oral as well as documentary evidence led by the claimant/appellant and ought to have assessed the monthly income of the deceased at Rs.10,000/- per month. In support of his contention, learned counsel for the appellants placed the reliance upon the judgment rendered by the Hon'ble Apex Court in case of **Gurpreet Kaur & Ors. Vs. United India Insurance Company Ltd.**, reported in IV (2022) ACC 1 (SC).

8. Learned counsel for the appellants further submitted that the learned Tribunal has awarded meager amount of compensation under the heads of loss of estate, loss of consortium, transportation charges and funeral expenses. Therefore, he prayed for enhancement of compensation under these heads. In support of his contention, learned counsel for the appellants placed the reliance upon the judgment rendered by the Hon'ble Apex Court in case of **National Insurance**



Company Ltd. Vs. Pranay Sethi, reported in 2017 (16) SCC 680 and ***Sidram Vs. The Divisional Manager, United India Insurance Company Limited & Anr.***, reported in 2022 INSC 1202.

9. Per contra, Mr. R.G. Dwivedi, learned counsel appearing on behalf of respondent no.3/insurance company vehemently submitted that the income was not proved by leading the cogent evidence on record, therefore, the learned Tribunal has rightly assessed the income of the deceased at Rs.3,000/- per month on the basis of minimum wages prevalent at the time of accident. He further submitted that the learned Tribunal has awarded just compensation under all the heads of compensation, therefore, the captioned appeal is liable to be dismissed.

10. Having considered the submissions of the learned counsels for the parties and having gone through the record, it is to be noted that the original claimants/appellants herein challenged the impugned judgment and award on the ground of quantum.

11. So far as the quantum is concerned, it is not in dispute that at the time of accident, the deceased was aged about 39 years. It is the case of the claimants/appellants that at the time of the accident, the deceased was running a general store, was also actively engaged in agricultural activities and owned a chakda rickshaw bearing registration no.GJ-07-TT-9054. It emerges from the record that in order to substantiate their claim, the claimant/appellant no.2 stepped into witness box and filed the affidavit in examination-in-chief along with the lines of pleadings. It further emerges from the record that the claimants/appellants have also examined one-Vijaybhai Harshadbhai Solanki from M/s. N.P.R. Finance Ltd. at Exh.25. He proved on record



that the deceased obtained a loan for purchasing the chakda rickshaw bearing registration no.GJ-07-TT-9054. He also deposed that after the demise of Umedsinh Karansinh in the vehicular accident, the installments could not be paid and therefore, the vehicle was seized by the said finance company. The seizure memo was also proved on record at Exh.26 and the schedule of payment of installments was also proved on record at Exh.27. It emerges from Exh.27 that the deceased was paying the installments of Rs.5,000/- per month. In my considered view, since the deceased was paying the installments of Rs.5,000/- per month at the time of the accident, how his income could have been assessed lower than Rs.5,000/- per month. The learned Tribunal has lost the sight of this aspect and assessed the income of the deceased at Rs.3,000/- per month. A person who was paying the installments of Rs.5,000/- per month, ought to have been earning much more than Rs.5,000/-, therefore, the income pleaded in the claim petition appears to be genuine and accordingly, I reassess the income of the deceased as Rs.10,000/- per month from all the sources of income.

12. At the time of accident, the deceased was aged about 39 years, therefore, the monthly income of the deceased is to be further enhanced by 40%. Thus, after adding 40% to the monthly income, it would come to Rs.14,000/- i.e. $(10,000 + 10,000 \times 40\%)$. The deceased was survived by 6 legal representatives i.e. his widow, four children and mother, therefore, $\frac{1}{4}$ of the monthly income is deducted on account of personal expenses of the deceased. Thus, after deducting $\frac{1}{4}$ on account of personal expenses of the deceased, the monthly income for calculating the future loss of dependency would come to Rs.10,500/- i.e. $(14,000 - 14,000 \times \frac{1}{4})$. Thus, applying the multiplier of 15 as per age of the deceased, the future loss of dependency would come to



Rs.18,90,000/- i.e. (10,500X12X15).

13. The learned Tribunal has awarded a sum of Rs.10,000/- under the head of loss of estate and a sum of Rs.5,000/- under the head of funeral expenses. The compensation awarded under these heads is enhanced to Rs.18,150/- under each head in view of the ratio laid down by the Hon'ble Apex Court in case of Pranay Sethi (supra).

14. It is not in dispute that the deceased was survived by 6 legal representatives i.e. his widow, four children and mother. In view of the ratio laid down by the Hon'ble Apex Court in case of Nanu Ram @ Chuhru Ram (supra), all the legal representatives are entitled to get the compensation under the head of loss of consortium. Hence accordingly, a sum of Rs.2,90,400/- i.e. (48,400X6) is awarded under the head of loss of consortium.

15. In view of the above discussion, the appellants/claimants shall be entitled for the following amount of compensation under the following heads:-

Sr. No.	Particular	Amount
1.	Future loss of dependency	18,90,000/-
2.	Loss of consortium	2,90,400/-
3.	Loss of estate	18,150/-
4.	Funeral expenses	18,150/-
	Total	22,16,700/-

16. The learned Tribunal has already awarded a sum of Rs.7,56,000/- as a compensation, therefore, the original claimants/appellants shall be entitled for additional compensation of



Rs.14,60,700/- i.e. (22,16,700-7,56,000). The learned Tribunal has awarded the interest at the rate of 9% per annum, therefore, the original claimants/appellants shall be entitled for the same rate of interest on additional amount of compensation from the date of filing of claim petition till its realization.

17. In view of the above discussion, the captioned appeal stands allowed partly and the impugned judgment and award is to be modified to the aforesaid extent. The respondent no.3/insurance company shall deposit the additional amount of compensation along with interest within a period of 6 weeks from the date of receipt of copy of this order.

18. Upon depositing of the said amount of compensation, the learned Tribunal shall disburse the entire amount of compensation along with interest to the original claimants/appellants herein after deducting deficit of Court fee, if any, after due verification. The amount, if any, lying deposited with the registry of this Court, the same shall be transmitted to the learned Tribunal concerned. No order as to costs.

19. Record & Proceedings, if any, be sent back to the learned Tribunal concerned.

HARSHIT

(MOOL CHAND TYAGI, J)